

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MELISSA BARGE,
Plaintiff,

v.

KEN BETT'S TOWING COMPANY,
Defendant.

Case No. 21-cv-02558-TLT

**ORDER OF DISMISSAL FOR LACK
OF SUBJECT MATTER
JURISDICTION**

Re: ECF No. 48

On March 27, 2023, the Court ordered Plaintiff Melissa Barge to respond to an Order to Show Cause (“OSC”) why it should not dismiss this action for lack of subject matter jurisdiction. *See* ECF No. 48. The Court advised Plaintiff that “by no later than April 17, 2023, Plaintiff shall explain in writing why this case should not be dismissed for lack of subject matter jurisdiction.”

Id. at 3. Alternatively, the Court advised Plaintiff that she may respond to the OSC by filing


a second amended complaint by April 17, 2023, which clearly and simply states (1) the basis for subject matter jurisdiction, (2) the claim Plaintiff seeks to bring in federal court against Defendant Ken Bett’s Towing Company (see Fed. R. Civ. P. 8), and (3) the specific action(s) Defendant Ken Bett’s Towing Company allegedly took, or failed to take, and the injury resulting from the claim.

Id. To date, Plaintiff has not complied with the OSC. Accordingly, for good cause appearing, the Court hereby **DISMISSES** this action without prejudice for lack of subject matter jurisdiction. *See Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th Cir. 2014) (The plaintiff bears the burden of establishing the existence of subject matter jurisdiction.); *see also* Fed. R. Civ. P. 12(h)(3) (Courts have a duty to consider its subject matter jurisdiction *sua sponte.*); *Scholastic Entm’t, Inc. v. Fox Entm’t Grp., Inc.*, 336 F.3d 982, 985 (9th Cir. 2003) (If a court determines it lacks subject matter jurisdiction, the court may dismiss the action *sua sponte.*).

This Order terminates this action.

IT IS SO ORDERED.

Dated: April 20, 2023


TRINA L. THOMPSON
United States District Judge

United States District Court
Northern District of California